IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No. 1503 of 1999

Date of decision : November 29, 2006.

Fungicide India Pvt. Limited

.....Petitioner

Vs.

State of Punjab

.....Respondent

****

PRESENT: Mr. Som Raj Verma, Advocate for petitioner.
Mr.G.S.Bhandari, Deputy Advocate General, Punjab

JUDGMENT

M.M.AGGARWAL, J.

This is a petition filed by petitioner - distributor against order dated 15.9.1999 of CJM Mansa whereby application for discharge was dismissed.

The facts of the case are that State of Punjab through Insecticide Inspector had filed complaint for offence under Sections 3k, 17,18,29 and 33 of Insecticides Act 1968 and Rule 27(5) of Insecticide Rules 1971 against the dealer/manufacturer/distributor

As per the allegations, sample of Diathene M-45 (Mencozeb 75%

WP) was taken from M/s Healthy Crop Pvt. Limited on 21.9.1990 which was found to be misbranded.

On behalf of the petitioner, it had been argued that petitioner was just a distributor . The sample had been admittedly taken from sealed container. There was no allegation that petitioner had stored the same and that if this was taken from the Dealer and having been found to be misbranded, then the Distributor could not be held liable. A judgment of this Court in **Crl.Misc.No. 8787-M of 1994 (Bhupinder Singh Senior Marketing Officer of M/s National Organic Chemicals Industries Ltd Vs. State of Punjab through Insecticide Inspector, Ferozepur) decided on 10th March, 1995** has been relied in this connection. In that case also, sample was taken from the Distributor and that also from some sealed container.

Under these circumstances, this petition is accepted. Impugned order is set aside and petitioner shall stand discharged.

(M.M.Aggarwal)
Judge

November 29, 2006
raghav